

## **Community Preservation Advisory Committee**

**January 14, 2003**

**11:00 am – 1:00 pm, State House Room 437**

### **Meeting Summary**

#### **Attending:**

Rep. Peter Mills (Chair)  
Rep. Ted Koffman (Chair)  
Rep. Janet McLaughlin  
Ed Suslovic  
Jeff Sosnaud  
David Holt  
Beth Della Valle  
Mike Johnson

#### **Absent Committee Members:**

Sen. Lynn Bromley  
Rep. Sue Hawes  
Rep. David Tobin  
Peter Judkins  
Jim Brown

#### **Additional Attendees:**

Liz Rettenmaier, SPO (committee staff)  
Susan Johannesman, OPLA (committee staff)  
Jenn Burns, Maine Audubon  
Jodi Castallo, Maine NEMO  
Elaine Clark, BGS  
John DeIVecchio, SPO  
Linda Gifford, Maine Association of Realtors  
Kirsten Hebert, MMA  
Kathy Fuller, MDOT  
Peter Merrill, MSHA  
Mike Trobh, Modular Homebuilders Assoc.  
Gary Williams, MDOT

### **Preparation of CPAC Annual Report**

Committee Staff Liz Rettenmaier (SPO) and Susan Johannesman (OPLA) are preparing the CPAC Annual report. A proposed outline of the report was circulated at the meeting (and via email). Comments on the structure of the report (available online at <http://www.state.me.us/spo/cpip/cpac/meeting4.htm>) should be directed to Liz Rettenmaier ([liz.retttenmaier@state.gov](mailto:liz.retttenmaier@state.gov); 287-6417) as soon as possible. A draft of the report will be circulated and discussed at the next CPAC meeting, tentatively scheduled for February 3<sup>rd</sup>, 2003.

### **Clarification of CPAC Bill Proposals**

Peter Mills submitted nine bills for the CPAC before cloture. The legislative members of the Committee will meet to discuss sponsorship and co-sponsorship of the bills (not all will continue under Peter's sponsorship).

1. Resolve to amend Article IX, Section 19 of the Maine Constitution to permit funding transit from motor vehicle and motor vehicle fuel revenues.
  - MDOT is very concerned about moving forward on this bill without having an opportunity to provide the committee with additional information about the impacts of and alternatives to a constitutional amendment.
  - Rep. Mills expressed interest in maintaining the bill to start the conversation on the importance of alternative funding sources for public transportation.
  - Kathy Fuller (MDOT) asked for an opportunity to present additional information on the matter to the Committee before moving forward. Two germane studies have been completed in the last eight years, one by Dana Connors and one during John Melrose's tenure, which addressed funding alternatives and provide important information relevant to this topic. MDOT would also like to present the Committee with information on the funding process and the limitations on funding, the funding sources, and how MDOT has put their budget together. MDOT would prefer that the Committee did not move forward with this bill at this time. To give the committee a sense of the agency's commitment to non-highway projects, the agency requested \$78 million in General Fund Revenues in their budget; \$40 million is highway related, and another \$38 million is non-highway related.

- Rep. Mills reminded the Committee that legislators cannot submit legislation again until November 2004. One option is to leave this bill in the hopper for the time being, and revisit it in the spring. If the Committee meets again in February or March, the transportation issue should be on the agenda (20-30 minutes). Members decide at that point if it is appropriate to withdraw it. No committee would have acted on it by then anyway.
  - Jeff Sosnaud concurred. The Chair's point about losing this issue for two years does concern me; this may stimulate conversation on the subject. In terms of our meeting schedule, in my view, it needs to meet more than four times that are mandated, or we will be playing catch up continually. I would be willing to meet without the per diem and I imagine other members are as well.
    - Rep. Mills expressed the desire for a mid-session meeting.
  - Beth Della Valle asked Susan Johannesman about the Committee's ability to introduce legislation between biennia, and if that could be built into the Committee's report.
    - Even if included in the report, that doesn't give the Committee the authority to submit bills.
    - The members of the Legislative Council can approve it on a bill-by-bill basis. The two chambers would have to change the legislation to authorize the Committee to offer legislation.
    - The other option is if the delegated committee (depending on topic) is willing to report out legislation themselves.
    - If this committee got behind something next fall, it probably wouldn't be a problem.
    - We ought to include Committee priorities that have not had legislation introduced this session in the report so we can set the stage for future actions – regionalism, funding transportation, etc.
2. Bill to direct MDOT to incorporate regionalism in the Transit Bonus Payment Program rules, if they are unable to modify the rules before they are finalized. (NOTE: These are routine technical rules, so this may not require legislative action.)
    - MDOT has no objections to this proposal.
  3. Bill to direct MDOT promulgate rules to give preference in funding programs to communities that allow increased density (transit sufficient density) in their growth areas.
    - MDOT has no objections to this proposal.
- 4&5. Bill to authorize the use of a tax increment financing (TIF) or TIF-like tool to promote affordable housing. A CPAC subcommittee will be meeting to provide additional information (scope, applicability, administration) in the next few weeks by a subcommittee of CPAC members and other key interested parties.
- Rep. Mills submitted two bills to the Revisor's Office. The first expanded the existing TIF legislation to include residential development and kept the program in DECD, based on language drafted by Gary Wood and MSHA. The second created a new TIF program housed at MSHA, based on language drafted by DECD.
  - Another legislator submitted a third bill, which would house the program at DECD and was not limited to affordable housing, only limited to high cost areas.
  - Rep. Mills will withdraw "An Act to Amend the Tax Increment Financing Law to Include Affordable Housing." The Committee will move forward with "An Act to Establish a Municipal Affordable Housing Development District Program," which establishes the program under MSHA.
6. Bill to address affordable housing. Start with a shell of LD 2099 (the applicability and definitions), and create opportunities for local incentives (TIF-like incentives, density transfer fees) for developing affordable housing. Retain Design Guidelines and the direction to create rules; incorporate road width flexibility in Design Guidelines.
    - From the Affordable Housing Subcommittee Meeting on 12/15: Using the Definitions, Board description, and development criteria from LD 2099, submit a bill that will create a fund known as "Affordable Neighborhood Development Fund." MSHA will create rules and administer incentive funding (grants) based on decisions of the Board described under 2099, using standards in 2099. Applications to the board would be joint between the developer(s) and the town(s). Grants would

be used to compensate municipalities for expenses related to the project / impacts on transportation (roads, sidewalk), sewer and water, schools, and/or open space preservation. Money would be released based on certificate of occupancy; funds would be relative to the number of units (amt of funding per unit). Direct Board to work with other agencies (MDOT and LMF) to meet funding needs before allocating own resources. Sunset 10/08 (five years). Report back to legislature January '05 and January '07.

- Rep. Mills recounted that the funding option for the incentives proposed in this bill was unacceptable to MSHA (who had left the meeting before the proposal was made). As an alternative, MSHA suggested using the expansion of the real estate transfer tax that captures corporate acquisitions / transfers. These funds currently are allocated to the General Fund. It is important to consider this bill, to work to make the language viable. Even if it doesn't pass this year, it will likely come back when the economy picks up again.
- Susan Johannesman will follow up with OFPR to determine if the corporate transfer tax has a steady revenue stream and an approximate funding level that would be appropriate for the "affordable neighborhood development fund."
- David Holt enquired if there was an appeals process beyond the proposed committee.
  - Peter Merrill responded that if you wanted to draft an appeals process, it could be to the director (who would be on the panel to begin with), or the MSHA Board of Commissioners. The Commissioners are appointed by the governor, approved by a legislative committee, and confirmed by the senate.
  - Linda Gifford commented that there isn't an appeal process included in the language of LD 2099. If an application is denied, the board would have to provide the reason and the applicants could resubmit. But, this bill could certainly add an appeals process.
  - Peter Merrill expressed concern that the appeals process not open the gate for NIMBYs, etc. They need to keep that at the local level, where they have standing.
  - The Bureau of Purchasing has an appeals process that specifically applies to grants given by the state.
  - Peter Mills asked Susan Johannesman to verify there is an appeal available over this board, similar to existing MSHA and DECD boards.
- MMA does not have any comments on this proposal. Geoff Herman worked with the committee during the process. Since this process is voluntary and the town and developer work together, MMA has no objection.
- Beth Della Valle raised the concern that Land for Maine's Future (LMF) may not be the most appropriate source of funds for open space preservation; may want to get Conservation / Parks and Recreation program involved. LMF's focus is critical resources; there might be a better fit with some other state programs that create park and recreation activities.
- Mike Johnson pointed out that this proposal seems to focus on new development, and asked if there was a way to incorporate utilizing existing housing stock, or redeveloping existing structures.
  - There is a project being proposed in S. Windham, where there is an abandoned industrial structure a developer is interested in redeveloping, including developing some new residential units. That would fit into this model.
  - This bill was originally envisioned as building new neighborhoods of freestanding units, to build the "Great American Neighborhood."
  - The first rule of community and economic development is to shore up what you have. SPO is very supportive of that effort. That was not originally envisioned here; maybe this is or isn't the place for that.
  - Mike Johnson would like to see some incentive for that redevelopment over new construction.
  - Beth agreed that both are needed, but that this bill would have to be changed significantly to address some renovation projects.
  - Rep. Mills expressed that the goal is to create incentives for affordable housing, regardless of its location or age.
  - Peter Merrill pointed out that the bill started as a vision for GANs; the genesis of the bill was SPO's desire to incent or override the 2-acre minimum lot size zoning for new development.

- Rep. Mills pointed out the statute says you can't insist on a certain lot size.
- Beth Della Valle replied that the standards in Section 5.a really apply to single-family houses.
- Peter Merrill pointed out if this is a really lucrative incentive, and includes rehab and everything we want to include in here, than every development is first going to want to stop by this program to see if they can pick up some cash, resulting in a very long line of people at the door.
- Beth Della Valle expressed concern that the benefits outlined in the bill would not be enough to generate interest and get these proposals built. Communities' primary concerns are not the one-time costs for capital construction; it's the ongoing expense of educating students. The Committee originally discussed forgiveness against the valuation; she would like to see the cash as well as sheltering from valuation.
- Peter Mills responded that the valuation impact is not going to be that great. Simply taking it off or reducing it from the school funding formula is a fairly small impact. You still have the kids and a fairly thin funding stream. Three or four years ago, this would have passed with money. It may again in the future.
- Peter Merrill noted that in a town where they are losing students, this type project might be very attractive with the extra incentives.
- Beth reiterated that there are lots of perceptions and biases related to affordable housing and dense housing – one being the number and cost of additional school children. If what we need to do is attack perceptions, to take away the 'penalty' of additional units, it will be a symbolic display. It will give people at the local level an opportunity to counterbalance that perception. If we don't have something like this, we may not find a willing town.
- Ed Suslovic noted that while the bill last session was not successful, it garnered a broad coalition of support. It tells me we were on the right track. It was geared only to those in unaffordable areas, where there is a shortage. This was not meant to fix a problem that doesn't exist. If it was the right thing to do, we should do it again.
- Ted Koffman reminded the committee they had discussed jointly sponsored workshops in some key regions, looking at the issues, and work on the education side.
- David Holt asked if the proposed housing TIF bill passed, could a development get both a TIF and these incentives?
  - Peter Mills replied that should be the case. Communities that "take a hit" under revenue sharing can apply for the TIF sheltering.
- Peter Mills proposed to keep the bill as drafted; focus schools on page one to "renovation, construction, and capital improvement."
- Beth Della Valle proposed adding streetscape improvements (street, sidewalks, trees, landscaping – language in the municipal investment trust fund is similar) to the list of benefits.
- Kirsten Hebert proposed adding public safety costs (police, fire service) to the list of benefits.
  - Ted Koffman noted that for most communities, the impact is likely to be reduced emergency service costs, since you don't have to go 12 miles out to respond to a call.
  - Peter Merrill concurred. The unstated issue here is the perception that affordable housing is for poor people, who require more police services. You don't hear people talking about that with suburban gated communities.
  - Peter Mills noted that absent capital costs, those services could not be funded anyway.
- Beth Della Valle wanted to know if this bill is limited to places with documented affordable housing needs like it was last year?
  - Ted Koffman wondered if the market would take care of that.
  - Peter Mills suggested MSHA account for that in the rule making
- Peter Merrill asked what would happen if a town were extracting an impact fee from a developer **and** asked for this funding.
  - Peter Mills thought this would be in lieu of the impact fee.
  - Beth Della Valle responded that allowing this fund to pay the portion of the impact fee instead of the developer would make the impact fee system work better, because the developer of affordable housing would not be penalized.
  - Peter Mills noted that any funds awarded must be in lieu of an impact fee assessed to the developer. We don't want double dipping.

7. Bill to offer incentives to communities for adopting both a building code and the rehab component of *either* type (BOCA or Health and Safety), for example preferences for DECD-administered economic development grants - e.g., MITF, preferences within slum and blight funding.
  - The committee had no comment on this bill. DECD not present to comment on the funding source proposed.
8. Bill mirroring the original language proposed to the 2001 Growth Management Task Force regarding local rate of growth ordinances (growth caps) (new Title 30-A, §4360).
  - The committee had no comment on this bill.
9. Bill mirroring the original language of LD 796, "Limitation on Ordinance Power" to address retroactive moratoria on building (and other reversed local decisions) that are a result of citizen-initiated referenda.
  - The committee had no comment on this bill. Non-Legislative Actions Recommended by the CPAC:

### **Building Support For Bills Supported By The CPAC And Proposed By CPAC Legislative Members During This Session**

This will largely be coordinated via email through Liz Rettenmaier.

The Committee will tentatively meet on February 3<sup>rd</sup>, 2003, 10:00 – 2:00. Proposed agenda items include:

- Transportation constitutional amendment – Presentation by MDOT
- Final look at all the bills
- Discussing Co-sponsors and Committee assignments for the bills
- Review draft annual report (draft will be circulated via email prior to the meeting)
- Review other legislative titles related to CPAC charge proposed by other legislators (possibly invite sponsors to present – briefly – to the Committee). Consider presenting the CPAC's opinion to appropriate committees.
- Identify future priorities, projects, research